

***In the Senate of the United States,***

*December 15 (legislative day, September 22), 2000.*

*Resolved*, That the bill from the House of Representatives (H.R. 46) entitled “An Act to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, to enhance computer crime enforcement and Internet security, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***TITLE I—PUBLIC SAFETY MEDAL***  
2 ***OF VALOR***

3 ***SECTION 101. SHORT TITLE.***

4 *This title may be cited as the “Public Safety Officer*  
5 *Medal of Valor Act of 2000”.*

6 ***SEC. 102. AUTHORIZATION OF MEDAL.***

7 *After September 1, 2001, the President may award,*  
8 *and present in the name of Congress, a Medal of Valor of*  
9 *appropriate design, with ribbons and appurtenances, to a*

1 *public safety officer who is cited by the Attorney General,*  
 2 *upon the recommendation of the Medal of Valor Review*  
 3 *Board, for extraordinary valor above and beyond the call*  
 4 *of duty. The Public Safety Medal of Valor shall be the high-*  
 5 *est national award for valor by a public safety officer.*

6 **SEC. 103. MEDAL OF VALOR BOARD.**

7       *(a) ESTABLISHMENT OF BOARD.—There is established*  
 8 *a Medal of Valor Review Board (hereinafter in this title*  
 9 *referred to as the “Board”), which shall be composed of 11*  
 10 *members appointed in accordance with subsection (b) and*  
 11 *shall conduct its business in accordance with this title.*

12       *(b) MEMBERSHIP.—*

13               *(1) MEMBERS.—The members of the Board shall*  
 14 *be individuals with knowledge or expertise, whether*  
 15 *by experience or training, in the field of public safety,*  
 16 *of which—*

17                       *(A) two shall be appointed by the majority*  
 18 *leader of the Senate;*

19                       *(B) two shall be appointed by the minority*  
 20 *leader of the Senate;*

21                       *(C) two shall be appointed by the Speaker*  
 22 *of the House of Representatives;*

23                       *(D) two shall be appointed by the minority*  
 24 *leader of the House of Representatives; and*

1           (E) *three shall be appointed by the Presi-*  
 2           *dent, including one with experience in fire-*  
 3           *fighting, one with experience in law enforcement,*  
 4           *and one with experience in emergency services.*

5           (2) *TERM.—The term of a Board member shall*  
 6           *be 4 years.*

7           (3) *VACANCIES.—Any vacancy in the member-*  
 8           *ship of the Board shall not affect the powers of the*  
 9           *Board and shall be filled in the same manner as the*  
 10          *original appointment.*

11          (4) *OPERATION OF THE BOARD.—*

12           (A) *CHAIRMAN.—The Chairman of the*  
 13           *Board shall be elected by the members of the*  
 14           *Board from among the members of the Board.*

15           (B) *MEETINGS.—The initial meeting of the*  
 16           *Board shall be conducted within 90 days of the*  
 17           *appointment of the last member of the Board.*  
 18           *Thereafter, the Board shall meet at the call of the*  
 19           *Chairman of the Board. The Board shall meet*  
 20           *not less often than twice each year.*

21           (C) *VOTING AND RULES.—A majority of the*  
 22           *members shall constitute a quorum to conduct*  
 23           *business, but the Board may establish a lesser*  
 24           *quorum for conducting hearings scheduled by the*  
 25           *Board. The Board may establish by majority*

1           *vote any other rules for the conduct of the*  
2           *Board's business, if such rules are not incon-*  
3           *sistent with this title or other applicable law.*

4           *(c) DUTIES.—The Board shall select candidates as re-*  
5           *cipients of the Medal of Valor from among those applica-*  
6           *tions received by the National Medal Office. Not more often*  
7           *than once each year, the Board shall present to the Attorney*  
8           *General the name or names of those it recommends as Medal*  
9           *of Valor recipients. In a given year, the Board shall not*  
10          *be required to select any recipients but may not select more*  
11          *than 5 recipients. The Attorney General may in extraor-*  
12          *dinary cases increase the number of recipients in a given*  
13          *year. The Board shall set an annual timetable for fulfilling*  
14          *its duties under this title.*

15          *(d) HEARINGS.—*

16                 *(1) IN GENERAL.—The Board may hold such*  
17                 *hearings, sit and act at such times and places, ad-*  
18                 *minister such oaths, take such testimony, and receive*  
19                 *such evidence as the Board considers advisable to*  
20                 *carry out its duties.*

21                 *(2) WITNESS EXPENSES.—Witnesses requested to*  
22                 *appear before the Board may be paid the same fees*  
23                 *as are paid to witnesses under section 1821 of title*  
24                 *28, United States Code. The per diem and mileage al-*

1        *lowances for witnesses shall be paid from funds ap-*  
2        *propriated to the Board.*

3        *(e) INFORMATION FROM FEDERAL AGENCIES.—The*  
4        *Board may secure directly from any Federal department*  
5        *or agency such information as the Board considers nec-*  
6        *essary to carry out its duties. Upon the request of the*  
7        *Board, the head of such department or agency may furnish*  
8        *such information to the Board.*

9        *(f) INFORMATION TO BE KEPT CONFIDENTIAL.—The*  
10       *Board shall not disclose any information which may com-*  
11       *promise an ongoing law enforcement investigation or is oth-*  
12       *erwise required by law to be kept confidential.*

13       **SEC. 104. BOARD PERSONNEL MATTERS.**

14       *(a) COMPENSATION OF MEMBERS.—(1) Except as pro-*  
15       *vided in paragraph (2), each member of the Board shall*  
16       *be compensated at a rate equal to the daily equivalent of*  
17       *the annual rate of basic pay prescribed for level IV of the*  
18       *Executive Schedule under section 5315 of title 5, United*  
19       *States Code, for each day (including travel time) during*  
20       *which such member is engaged in the performance of the*  
21       *duties of the Board.*

22       *(2) All members of the Board who serve as officers or*  
23       *employees of the United States, a State, or a local govern-*  
24       *ment, shall serve without compensation in addition to that*  
25       *received for those services.*

1       (b) *TRAVEL EXPENSES.*—*The members of the Board*  
 2 *shall be allowed travel expenses, including per diem in lieu*  
 3 *of subsistence, at rates authorized for employees of agencies*  
 4 *under subchapter I of chapter 57 of title 5, United States*  
 5 *Code, while away from their homes or regular places of*  
 6 *business in the performance of service for the Board.*

7 **SEC. 105. DEFINITIONS.**

8       *In this title:*

9           (1) *PUBLIC SAFETY OFFICER.*—*The term “public*  
 10 *safety officer” means a person serving a public agen-*  
 11 *cy, with or without compensation, as a firefighter,*  
 12 *law enforcement officer, or emergency services officer,*  
 13 *as determined by the Attorney General. For the pur-*  
 14 *poses of this paragraph, the term “law enforcement*  
 15 *officer” includes a person who is a corrections or*  
 16 *court officer or a civil defense officer.*

17           (2) *STATE.*—*The term “State” means each of the*  
 18 *several States of the United States, the District of Co-*  
 19 *lumbia, the Commonwealth of Puerto Rico, the Virgin*  
 20 *Islands, Guam, American Samoa, and the Common-*  
 21 *wealth of the Northern Mariana Islands.*

22 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

23       *There are authorized to be appropriated to the Attor-*  
 24 *ney General such sums as may be necessary to carry out*  
 25 *this title.*

1 **SEC. 107. NATIONAL MEDAL OF VALOR OFFICE.**

2 *There is established within the Department of Justice*  
 3 *a national medal of valor office. The office shall provide*  
 4 *staff support to the Board to establish criteria and proce-*  
 5 *dures for the submission of recommendations of nominees*  
 6 *for the Medal of Valor and for the final design of the Medal*  
 7 *of Valor.*

8 **SEC. 108. CONFORMING REPEAL.**

9 *Section 15 of the Federal Fire Prevention and Control*  
 10 *Act of 1974 (15 U.S.C. 2214) is amended—*

11 *(1) by striking subsection (a) and inserting the*  
 12 *following new subsection (a):*

13 *“(a) ESTABLISHMENT.—There is hereby established an*  
 14 *honorary award for the recognition of outstanding and dis-*  
 15 *tinguished service by public safety officers to be known as*  
 16 *the Secretary’s Award For Distinguished Public Safety*  
 17 *Service (‘Secretary’s Award’).”;*

18 *(2) in subsection (b)—*

19 *(A) by striking paragraph (1); and*

20 *(B) by striking “(2)”;*

21 *(3) by striking subsections (c) and (d) and redес-*  
 22 *ignating subsections (e), (f), and (g) as subsections*  
 23 *(c), (d), and (e), respectively; and*

24 *(4) in subsection (c), as so redesignated—*

25 *(A) by striking paragraph (1); and*

26 *(B) by striking “(2)”.*

1 **SEC. 109. CONSULTATION REQUIREMENT.**

2       *The Board shall consult with the Institute of Heraldry*  
 3 *within the Department of Defense regarding the design and*  
 4 *artistry of the Medal of Valor. The Board may also consider*  
 5 *suggestions received by the Department of Justice regarding*  
 6 *the design of the medal, including those made by persons*  
 7 *not employed by the Department.*

8               **TITLE II—COMPUTER CRIME**  
 9                       **ENFORCEMENT**

10 **SEC. 201. SHORT TITLE.**

11       *This title may be cited as the “Computer Crime En-*  
 12 *forcement Act”.*

13 **SEC. 202. STATE GRANT PROGRAM FOR TRAINING AND**  
 14                       **PROSECUTION OF COMPUTER CRIMES.**

15       (a) *IN GENERAL.*—Subject to the availability of  
 16 amounts provided in advance in appropriations Acts, the  
 17 Office of Justice Programs shall make a grant to each State,  
 18 which shall be used by the State, in conjunction with units  
 19 of local government, State and local courts, other States,  
 20 or combinations thereof, to—

21               (1) *assist State and local law enforcement in en-*  
 22 *forcing State and local criminal laws relating to com-*  
 23 *puter crime;*

24               (2) *assist State and local law enforcement in*  
 25 *educating the public to prevent and identify computer*  
 26 *crime;*



1           (3) assist in educating and training State and  
2           local law enforcement officers and prosecutors to con-  
3           duct investigations and forensic analyses of evidence  
4           and prosecutions of computer crime;

5           (4) assist State and local law enforcement offi-  
6           cers and prosecutors in acquiring computer and other  
7           equipment to conduct investigations and forensic  
8           analysis of evidence of computer crimes; and

9           (5) facilitate and promote the sharing of Federal  
10          law enforcement expertise and information about the  
11          investigation, analysis, and prosecution of computer  
12          crimes with State and local law enforcement officers  
13          and prosecutors, including the use of multijuris-  
14          dictional task forces.

15          (b) *USE OF GRANT AMOUNTS.*—Grants under this sec-  
16          tion may be used to establish and develop programs to—

17               (1) assist State and local law enforcement in en-  
18               forcing State and local criminal laws relating to com-  
19               puter crime;

20               (2) assist State and local law enforcement in  
21               educating the public to prevent and identify computer  
22               crime;

23               (3) educate and train State and local law en-  
24               forcement officers and prosecutors to conduct inves-

1        *tigations and forensic analyses of evidence and pros-*  
2        *ecutions of computer crime;*

3            (4) *assist State and local law enforcement offi-*  
4        *cers and prosecutors in acquiring computer and other*  
5        *equipment to conduct investigations and forensic*  
6        *analysis of evidence of computer crimes; and*

7            (5) *facilitate and promote the sharing of Federal*  
8        *law enforcement expertise and information about the*  
9        *investigation, analysis, and prosecution of computer*  
10       *crimes with State and local law enforcement officers*  
11       *and prosecutors, including the use of multijuris-*  
12       *dictional task forces.*

13        (c) *ASSURANCES.—To be eligible to receive a grant*  
14       *under this section, a State shall provide assurances to the*  
15       *Attorney General that the State—*

16            (1) *has in effect laws that penalize computer*  
17        *crime, such as penal laws prohibiting—*

18                    (A) *fraudulent schemes executed by means*  
19                    *of a computer system or network;*

20                    (B) *the unlawful damaging, destroying, al-*  
21                    *tering, deleting, removing of computer software,*  
22                    *or data contained in a computer, computer sys-*  
23                    *tem, computer program, or computer network; or*

24                    (C) *the unlawful interference with the oper-*  
25                    *ation of or denial of access to a computer, com-*

1           puter program, computer system, or computer  
2           network;

3           (2) *an assessment of the State and local resource*  
4           *needs, including criminal justice resources being de-*  
5           *voted to the investigation and enforcement of com-*  
6           *puter crime laws; and*

7           (3) *a plan for coordinating the programs funded*  
8           *under this section with other federally funded tech-*  
9           *nical assistant and training programs, including di-*  
10          *rectly funded local programs such as the Local Law*  
11          *Enforcement Block Grant program (described under*  
12          *the heading “Violent Crime Reduction Programs,*  
13          *State and Local Law Enforcement Assistance” of the*  
14          *Departments of Commerce, Justice, and State, the Ju-*  
15          *diiciary, and Related Agencies Appropriations Act,*  
16          *1998 (Public Law 105–119)).*

17          (d) *MATCHING FUNDS.—The Federal share of a grant*  
18          *received under this section may not exceed 90 percent of*  
19          *the costs of a program or proposal funded under this section*  
20          *unless the Attorney General waives, wholly or in part, the*  
21          *requirements of this subsection.*

22          (e) *AUTHORIZATION OF APPROPRIATIONS.—*

23               (1) *IN GENERAL.—There is authorized to be ap-*  
24               *propriated to carry out this section \$25,000,000 for*  
25               *each of fiscal years 2001 through 2004.*

1           (2) *LIMITATIONS.*—*Of the amount made avail-*  
 2           *able to carry out this section in any fiscal year not*  
 3           *more than 3 percent may be used by the Attorney*  
 4           *General for salaries and administrative expenses.*

5           (3) *MINIMUM AMOUNT.*—*Unless all eligible ap-*  
 6           *plications submitted by any State or unit of local*  
 7           *government within such State for a grant under this*  
 8           *section have been funded, such State, together with*  
 9           *grantees within the State (other than Indian tribes),*  
 10          *shall be allocated in each fiscal year under this sec-*  
 11          *tion not less than 0.75 percent of the total amount*  
 12          *appropriated in the fiscal year for grants pursuant to*  
 13          *this section, except that the United States Virgin Is-*  
 14          *lands, American Samoa, Guam, and the Northern*  
 15          *Mariana Islands each shall be allocated 0.25 percent.*

16          (f) *GRANTS TO INDIAN TRIBES.*—*Notwithstanding any*  
 17          *other provision of this section, the Attorney General may*  
 18          *use amounts made available under this section to make*  
 19          *grants to Indian tribes for use in accordance with this sec-*  
 20          *tion.*

## 21    ***TITLE III—INTERNET SECURITY***

### 22    ***SEC. 301. SHORT TITLE.***

23          *This title may be cited as the “Internet Security Act*  
 24          *of 2000”.*

1 **SEC. 302. DEPUTY ASSISTANT ATTORNEY GENERAL FOR**  
2 **COMPUTER CRIME AND INTELLECTUAL PROP-**  
3 **ERTY.**

4 (a) *ESTABLISHMENT OF POSITION.*—(1) Chapter 31 of  
5 title 28, United States Code, is amended by inserting after  
6 section 507 the following new section:

7 **“§ 507a. Deputy Assistant Attorney General for Com-**  
8 **puter Crime and Intellectual Property**

9 “(a) *The Attorney General shall appoint a Deputy As-*  
10 *sistant Attorney General for Computer Crime and Intellec-*  
11 *tual Property.*

12 “(b) *The Deputy Assistant Attorney General shall be*  
13 *the head of the Computer Crime and Intellectual Property*  
14 *Section (CCIPS) of the Department of Justice.*

15 “(c) *The duties of the Deputy Assistant Attorney Gen-*  
16 *eral shall include the following:*

17 “(1) *To advise Federal prosecutors and law en-*  
18 *forcement personnel regarding computer crime and*  
19 *intellectual property crime.*

20 “(2) *To coordinate national and international*  
21 *law enforcement activities relating to combatting*  
22 *computer crime.*

23 “(3) *To provide guidance and assistance to Fed-*  
24 *eral, State, and local law enforcement agencies and*  
25 *personnel, and appropriate foreign entities, regarding*

1       *responses to threats of computer crime and cyber-ter-*  
2       *rorism.*

3               “(4) *To serve as the liaison of the Attorney Gen-*  
4       *eral to the National Infrastructure Protection Center*  
5       *(NIPC), the Department of Defense, the National Se-*  
6       *curity Agency, and the Central Intelligence Agency on*  
7       *matters relating to computer crime.*

8               “(5) *To coordinate training for Federal, State,*  
9       *and local prosecutors and law enforcement personnel*  
10       *on laws pertaining to computer crime.*

11               “(6) *To propose and comment upon legislation*  
12       *concerning computer crime, intellectual property*  
13       *crime, encryption, electronic privacy, and electronic*  
14       *commerce, and concerning the search and seizure of*  
15       *computers.*

16               “(7) *Such other duties as the Attorney General*  
17       *may require, including duties carried out by the head*  
18       *of the Computer Crime and Intellectual Property Sec-*  
19       *tion of the Department of Justice as of the date of the*  
20       *enactment of the Internet Security Act of 2000.”.*

21       (2) *The table of sections at the beginning of such chap-*  
22       *ter is amended by inserting after the item relating to section*  
23       *507 the following new item:*

              “507a. *Deputy Assistant Attorney General for Computer Crime and Intellectual*  
              *Property.”.*

1       (b) *FIRST APPOINTMENT TO POSITION OF DEPUTY AS-*  
2 *SISTANT ATTORNEY GENERAL.*—(1) *The individual who*  
3 *holds the position of head of the Computer Crime and Intel-*  
4 *lectual Property Section (CCIPS) of the Department of Jus-*  
5 *tice as of the date of the enactment of this title shall act*  
6 *as the Deputy Assistant Attorney General for Computer*  
7 *Crime and Intellectual Property under section 507a of title*  
8 *28, United States Code, until the Attorney General appoints*  
9 *an individual to hold the position of Deputy Assistant At-*  
10 *torney General for Computer Crime and Intellectual Prop-*  
11 *erty under that section.*

12       (2) *The individual first appointed as Deputy Assistant*  
13 *Attorney General for Computer Crime and Intellectual*  
14 *Property after the date of the enactment of this title may*  
15 *be the individual who holds the position of head of the Com-*  
16 *puter Crime and Intellectual Property Section of the De-*  
17 *partment of Justice as of that date.*

18       (c) *AUTHORIZATION OF APPROPRIATIONS FOR*  
19 *CCIPS.*—*There is hereby authorized to be appropriated for*  
20 *the Department of Justice for fiscal year 2001, \$5,000,000*  
21 *for the Computer Crime and Intellectual Property Section*  
22 *of the Department for purposes of the discharge of the duties*  
23 *of the Deputy Assistant Attorney General for Computer*  
24 *Crime and Intellectual Property under section 507a of title*

1 28, *United States Code* (as so added), during that fiscal  
 2 year.

3 **SEC. 303. DETERRENCE AND PREVENTION OF FRAUD,**  
 4 **ABUSE, AND CRIMINAL ACTS IN CONNECTION**  
 5 **WITH COMPUTERS.**

6 (a) *CLARIFICATION OF PROTECTION OF PROTECTED*  
 7 *COMPUTERS.*—Subsection (a)(5) of section 1030 of title 18,  
 8 *United States Code*, is amended—

9 (1) by inserting “(i)” after “(A)”;

10 (2) by redesignated subparagraphs (B) and (C)  
 11 as clauses (ii) and (iii), respectively, of subparagraph  
 12 (A);

13 (3) by adding “and” at the end of clause (iii),  
 14 as so redesignated; and

15 (4) by adding at the end the following new sub-  
 16 paragraph:

17 “(B) whose conduct described in clause (i), (ii),  
 18 or (iii) of subparagraph (A) caused (or, in the case  
 19 of an attempted offense, would, if completed, have  
 20 caused)—

21 “(i) loss to 1 or more persons during any  
 22 1-year period (including loss resulting from a re-  
 23 lated course of conduct affecting 1 or more other  
 24 protected computers) aggregating at least \$5,000  
 25 in value;



“(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

“(iii) physical injury to any person;

“(iv) a threat to public health or safety; or

“(v) damage affecting a computer system used by or for a government entity in furtherance of the administration of justice, national defense, or national security;”.

(b) *PROTECTION FROM EXTORTION*.—Subsection

(a)(7) of that section is amended by striking “, firm, association, educational institution, financial institution, governmental entity, or other legal entity,”.

(c) *PENALTIES*.—Subsection (c) of that section is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by inserting “except as provided in subparagraph (B),” before “a fine”;

(ii) by striking “(a)(5)(C)” and inserting “(a)(5)(A)(iii)”;

(iii) by striking “and” at the end;

(B) in subparagraph (B), by inserting “or an attempt to commit an offense punishable

1           *under this subparagraph,” after “subsection*  
2           *(a)(2),” in the matter preceding clause (i); and*  
3           *(C) in subparagraph (C), by striking “and”*  
4           *at the end;*  
5           *(2) in paragraph (3)—*  
6           *(A) by striking “, (a)(5)(A), (a)(5)(B),”*  
7           *both places it appears; and*  
8           *(B) by striking “(a)(5)(C)” and inserting*  
9           *“(a)(5)(A)(iii)”;* and  
10          *(3) by adding at the end the following new para-*  
11         *graph:*  
12                 *“(4)(A) a fine under this title, imprisonment for*  
13                 *not more than 10 years, or both, in the case of an of-*  
14                 *fense under subsection (a)(5)(A)(i), or an attempt to*  
15                 *commit an offense punishable under this subpara-*  
16                 *graph;*  
17                 *“(B) a fine under this title, imprisonment for*  
18                 *not more than 5 years, or both, in the case of an of-*  
19                 *fense under subsection (a)(5)(A)(ii), or an attempt to*  
20                 *commit an offense punishable under this subpara-*  
21                 *graph; and*  
22                 *“(C) a fine under this title, imprisonment for*  
23                 *not more than 20 years, or both, in the case of an of-*  
24                 *fense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or*  
25                 *an attempt to commit an offense punishable under*

1       *this subparagraph, that occurs after a conviction for*  
2       *another offense under this section.”.*

3       (d) *DEFINITIONS.*—*Subsection (e) of that section is*  
4       *amended—*

5               (1) *in paragraph (2)(B), by inserting “, includ-*  
6       *ing a computer located outside the United States that*  
7       *is used in a manner that affects interstate or foreign*  
8       *commerce or communication of the United States” be-*  
9       *fore the semicolon;*

10              (2) *in paragraph (7), by striking “and” at the*  
11       *end;*

12              (3) *by striking paragraph (8) and inserting the*  
13       *following new paragraph (8):*

14               “(8) *the term ‘damage’ means any impairment*  
15       *to the integrity or availability of data, a program, a*  
16       *system, or information;”*

17              (4) *in paragraph (9), by striking the period at*  
18       *the end and inserting a semicolon; and*

19              (5) *by adding at the end the following new para-*  
20       *graphs:*

21               “(10) *the term ‘conviction’ shall include a con-*  
22       *viction under the law of any State for a crime pun-*  
23       *ishable by imprisonment for more than 1 year, an ele-*  
24       *ment of which is unauthorized access, or exceeding*  
25       *authorized access, to a computer;*

1           “(11) the term ‘loss’ means any reasonable cost  
2           to any victim, including the cost of responding to an  
3           offense, conducting a damage assessment, and restoring  
4           the data, program, system, or information to its  
5           condition prior to the offense, and any revenue lost,  
6           cost incurred, or other consequential damages incurred  
7           because of interruption of service; and

8           “(12) the term ‘person’ means any individual,  
9           firm, corporation, educational institution, financial  
10          institution, governmental entity, or legal or other entity.”.

12          (e) DAMAGES IN CIVIL ACTIONS.—Subsection (g) of  
13          that section is amended—

14               (1) by striking the second sentence and inserting  
15               the following new sentences: “A suit for a violation of  
16               this section may be brought only if the conduct involves  
17               one of the factors enumerated in clauses (i)  
18               through (v) of subsection (a)(5)(B). Damages for a  
19               violation involving only conduct described in subsection  
20               (a)(5)(B)(i) are limited to economic damages.”; and  
21               

22               (2) by adding at the end the following new sentence:  
23               “No action may be brought under this subsection  
24               for the negligent design or manufacture of

5        *Section 1030 of title 18, United States Code, as amend-*  
6   *ed by section 303 of this Act, is further amended—*

(1) by redesignating subsection (h) as subsection  
(i); and

9 (2) by inserting after subsection (g) the following  
10 new subsection (h):

11       “(h)(1) The court, in imposing sentence on any person  
12 convicted of a violation of this section, shall order, in addi-  
13 tion to any other sentence imposed and irrespective of any  
14 provision of State law, that such person forfeit to the United  
15 States—

16           “(A) the interest of such person in any personal  
17           property that was used or intended to be used to com-  
18           mit or to facilitate the commission of such violation;  
19           and

20                   “(B) any property, whether real or personal,  
21                   constituting or derived from any proceeds that such  
22                   person obtained, whether directly or indirectly, as a  
23                   result of such violation.

24 “(2) *The criminal forfeiture of property under this*  
25 *subsection, any seizure and disposition thereof, and any ad-*

1 *ministrative or judicial proceeding relating thereto, shall*  
 2 *be governed by the provisions of section 413 of the Com-*  
 3 *prehensive Drug Abuse Prevention and Control Act of 1970*  
 4 *(21 U.S.C. 853), except subsection (d) of that section.”.*

5 **SEC. 305. ENHANCED COORDINATION OF FEDERAL AGEN-**  
 6 **CIES.**

7 *Subsection (d) of section 1030 of title 18, United States*  
 8 *Code, is amended to read as follows:*

9 *“(d)(1) The United States Secret Service shall, in ad-*  
 10 *dition to any other agency having such authority, have the*  
 11 *authority to investigate offenses under this section relating*  
 12 *to its jurisdiction under section 3056 of this title and other*  
 13 *statutory authorities. Such authority of the United States*  
 14 *Secret Service shall be exercised in accordance with an*  
 15 *agreement which shall be entered into by the Secretary of*  
 16 *the Treasury and the Attorney General.*

17 *“(2) The Federal Bureau of Investigation shall have*  
 18 *primary authority to investigate offenses under subsection*  
 19 *(a)(1) for any cases involving espionage, foreign counter-*  
 20 *intelligence, information protected against unauthorized*  
 21 *disclosure for reasons of national defense or foreign rela-*  
 22 *tions, or Restricted Data (as that term is defined in section*  
 23 *11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)),*  
 24 *except for offenses affecting the duties of the United States*  
 25 *Secret Service pursuant to section 3056(a) of this title.”.*

1 **SEC. 306. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELAT-**  
 2 **ING TO PRESERVING RECORDS IN RESPONSE**  
 3 **TO GOVERNMENT REQUESTS.**

4 *Section 2707(e)(1) of title 18, United States Code, is*  
 5 *amended by inserting after “or statutory authorization” the*  
 6 *following: “(including a request of a governmental entity*  
 7 *under section 2703(f) of this title)”.*

8 **SEC. 307. FORFEITURE OF DEVICES USED IN COMPUTER**  
 9 **SOFTWARE COUNTERFEITING AND INTELLEC-**  
 10 **TUAL PROPERTY THEFT.**

11 *(a) IN GENERAL.—Section 2318(d) of title 18, United*  
 12 *States Code, is amended—*

13 *(1) by inserting “(1)” before “When”;*

14 *(2) in paragraph (1), as so designated, by insert-*  
 15 *ing “, and of any replicator or other device or thing*  
 16 *used to copy or produce the computer program or*  
 17 *other item to which the counterfeit labels have been af-*  
 18 *fixed or which were intended to have had such labels*  
 19 *affixed” before the period; and*

20 *(3) by adding at the end the following:*

21 *“(2) The forfeiture of property under this section, in-*  
 22 *cluding any seizure and disposition of the property, and*  
 23 *any related judicial or administrative proceeding, shall be*  
 24 *governed by the provisions of section 413 (other than sub-*  
 25 *section (d) of that section) of the Comprehensive Drug Abuse*  
 26 *Prevention and Control Act of 1970 (21 U.S.C. 853).”.*

1       (b) *CONFORMING AMENDMENT.*—Section 492 of such  
 2 title is amended in the first undesignated paragraph by  
 3 striking “or 1720,” and inserting “, 1720, or 2318”.

4       **SEC. 308. SENTENCING DIRECTIVES FOR COMPUTER**  
 5               **CRIMES.**

6       (a) *AMENDMENT OF SENTENCING GUIDELINES RELAT-*  
 7 *ING TO CERTAIN COMPUTER CRIMES.*—Pursuant to its au-  
 8 thority under section 994(p) of title 28, United States Code,  
 9 the United States Sentencing Commission shall amend the  
 10 Federal sentencing guidelines and, if appropriate, shall  
 11 promulgate guidelines or policy statements or amend exist-  
 12 ing policy statements to address—

13               (1) *the potential and actual loss resulting from*  
 14 *an offense under section 1030 of title 18, United*  
 15 *States Code (as amended by this title);*

16               (2) *the level of sophistication and planning in-*  
 17 *volved in such an offense;*

18               (3) *the growing incidence of offenses under such*  
 19 *subsections and the need to provide an effective deter-*  
 20 *rent against such offenses;*

21               (4) *whether or not such an offense was com-*  
 22 *mitted for purposes of commercial advantage or pri-*  
 23 *ivate financial benefit;*

24               (5) *whether or not the defendant involved a juve-*  
 25 *nile in the commission of such an offense;*



1           (6) *whether or not the defendant acted with ma-*  
2           *licious intent to cause harm in committing such an*  
3           *offense;*

4           (7) *the extent to which such an offense violated*  
5           *the privacy rights of individuals harmed by the of-*  
6           *fense; and*

7           (8) *any other factor the Commission considers*  
8           *appropriate in connection with any amendments*  
9           *made by this title with regard to such subsections.*

10          (b) *AMENDMENT OF SENTENCING GUIDELINES RELAT-*  
11 *ING TO CERTAIN COMPUTER FRAUD AND ABUSE.—Pursu-*  
12 *ant to its authority under section 994(p) of title 28, United*  
13 *States Code, the United States Sentencing Commission*  
14 *shall amend the Federal sentencing guidelines to ensure that*  
15 *any individual convicted of a violation of section*  
16 *1030(a)(5)(A)(ii) or 1030(a)(5)(A)(iii) of title 18, United*  
17 *States Code (as amended by section 303 of this Act), can*  
18 *be subjected to appropriate penalties, without regard to any*  
19 *mandatory minimum term of imprisonment.*

20          (c) *AMENDMENT OF SENTENCING GUIDELINES RELAT-*  
21 *ING TO USE OF ENCRYPTION.—Pursuant to its authority*  
22 *under section 994(p) of title 28, United States Code, the*  
23 *United States Sentencing Commission shall amend the Fed-*  
24 *eral sentencing guidelines and, if appropriate, shall pro-*  
25 *mulgate guidelines or policy statements or amend existing*

1 *policy statements to ensure that the guidelines provide suffi-*  
 2 *ciently stringent penalties to deter and punish persons who*  
 3 *intentionally use encryption in connection with the com-*  
 4 *mission or concealment of criminal acts sentenced under the*  
 5 *guidelines.*

6 (d) *EMERGENCY AUTHORITY.*—*The Commission may*  
 7 *promulgate the guidelines or amendments provided for*  
 8 *under this section in accordance with the procedures set*  
 9 *forth in section 21(a) of the Sentencing Act of 1987, as*  
 10 *though the authority under that Act had not expired.*

11 **SEC. 309. ASSISTANCE TO FEDERAL, STATE, AND LOCAL**  
 12 **COMPUTER CRIME ENFORCEMENT AND ES-**  
 13 **TABLISHMENT OF NATIONAL CYBER CRIME**  
 14 **TECHNICAL SUPPORT CENTER.**

15 (a) *NATIONAL CYBER CRIME TECHNICAL SUPPORT*  
 16 *CENTER.*—

17 (1) *CONSTRUCTION REQUIRED.*—*The Director of*  
 18 *the Federal Bureau of Investigation shall provide for*  
 19 *the construction and equipping of the technical sup-*  
 20 *port center of the Federal Bureau of Investigation re-*  
 21 *ferred to in section 811(a)(1)(A) of the Antiterrorism*  
 22 *and Effective Death Penalty Act of 1996 (Public Law*  
 23 *104–132; 110 Stat. 1312; 28 U.S.C. 531 note).*

24 (2) *NAMING.*—*The technical support center con-*  
 25 *structed and equipped under paragraph (1) shall be*

1       *known as the “National Cyber Crime Technical Sup-*  
2       *port Center”.*

3               (3) *FUNCTIONS.—In addition to any other au-*  
4       *thorized functions, the functions of the National Cyber*  
5       *Crime Technical Support Center shall be—*

6                       (A) *to serve as a centralized technical re-*  
7                       *source for Federal, State, and local law enforce-*  
8                       *ment and to provide technical assistance in the*  
9                       *investigation of computer-related criminal ac-*  
10                      *tivities;*

11                     (B) *to assist Federal, State, and local law*  
12                     *enforcement in enforcing Federal, State, and*  
13                     *local criminal laws relating to computer-related*  
14                     *crime;*

15                     (C) *to provide training and education for*  
16                     *Federal, State, and local law enforcement per-*  
17                     *sonnel regarding investigative technologies and*  
18                     *forensic analyses pertaining to computer-related*  
19                     *crime;*

20                     (D) *to conduct research and to develop tech-*  
21                     *nologies for assistance in investigations and fo-*  
22                     *rensic analyses of evidence related to computer-*  
23                     *related crimes;*

24                     (E) *to facilitate and promote efficiencies in*  
25                     *the sharing of Federal law enforcement expertise,*

1           *investigative technologies, and forensic analysis*  
2           *pertaining to computer-related crime with State*  
3           *and local law enforcement personnel, prosecutors,*  
4           *regional computer forensic laboratories, and*  
5           *multijurisdictional computer crime task forces;*  
6           *and*

7                     *(F) to carry out such other activities as the*  
8           *Director considers appropriate.*

9           ***(b) DEVELOPMENT AND SUPPORT OF COMPUTER FO-***  
10       ***RENSIC ACTIVITIES.—The Director shall, in consultation***  
11       ***with the heads of other Federal law enforcement agencies,***  
12       ***take appropriate actions to develop at least 10 regional***  
13       ***computer forensic laboratories, and to provide support, edu-***  
14       ***cation, and assistance for existing computer forensic labora-***  
15       ***tories, in order that such computer forensic laboratories***  
16       ***have the capability—***

17                     *(1) to provide forensic examinations with*  
18                     *respect to seized or intercepted computer evidence*  
19                     *relating to criminal activity;*

20                     *(2) to provide training and education for*  
21                     *Federal, State, and local law enforcement per-*  
22                     *sonnel and prosecutors regarding investigations,*  
23                     *forensic analyses, and prosecutions of computer-*  
24                     *related crime;*

1           (3) *to assist Federal, State, and local law*  
2           *enforcement in enforcing Federal, State, and*  
3           *local criminal laws relating to computer-related*  
4           *crime;*

5           (4) *to facilitate and promote the sharing of*  
6           *Federal law enforcement expertise and informa-*  
7           *tion about the investigation, analysis, and pros-*  
8           *ecution of computer-related crime with State and*  
9           *local law enforcement personnel and prosecutors,*  
10          *including the use of multijurisdictional task*  
11          *forces; and*

12          (5) *to carry out such other activities as the*  
13          *Attorney General considers appropriate.*

14          (c) *AUTHORIZATION OF APPROPRIATIONS.—*

15          (1) *AUTHORIZATION.—There is hereby author-*  
16          *ized to be appropriated for fiscal year 2001,*  
17          *\$100,000,000 for purposes of carrying out this sec-*  
18          *tion, of which \$20,000,000 shall be available solely for*  
19          *activities under subsection (b).*

- 1           (2) *AVAILABILITY.*—*Amounts appropriated pur-*  
2           *suant to the authorization of appropriations in para-*  
3           *graph (1) shall remain available until expended.*

Attest:

*Secretary.*

106TH CONGRESS  
2D SESSION

**H. R. 46**

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**AMENDMENT**

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